

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

DONNIE MAX DANIEL,)
vs.)
Petitioner,)
ERIC FRANKLIN, Warden,)
vs.) Case No. CIV-12-309-M
Respondent.)

ORDER

On March 27, 2012, United States Magistrate Judge Gary M. Purcell issued a Report and Recommendation in this case filed pursuant to 28 U.S.C. § 2241, seeking a writ of habeas corpus. The Magistrate Judge recommended that the Petition for a Writ of Habeas Corpus, construed as a petition seeking habeas relief pursuant to 28 U.S.C. § 2254, should be denied as time-barred. The parties were advised of their right to object to the Report and Recommendation by April 16, 2012. Petitioner has filed a timely objection.

Having carefully reviewed this matter de novo, the Court:

- (1) ADOPTS the findings in the Report and Recommendation [docket no. 6] that the instant Petition for a Writ of Habeas Corpus is properly construed as a petition seeking habeas relief pursuant to 28 U.S.C. § 2254 and that the instant petition is an unauthorized “second or successive” petition seeking habeas relief; and
- (2) DISMISSES the Petition for a Writ of Habeas Corpus for lack of jurisdiction.

IT IS SO ORDERED this 30th day of April, 2012.


VICKI MILES-LAGRANGE
CHIEF UNITED STATES DISTRICT JUDGE